

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DISTRICT

JACQUELINE SMITH,

Plaintiff,

vs

Case No. 2:10-cv-13470-PJD-MAR

Hon. Patrick J. Dugan

CO/OP OPTICAL SERVICES, INC.
a Michigan non-profit corporation,

Defendant.

SOMMERS SCHWARTZ, P.C.
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JOINT RULE 26(f) DISCOVERY PLAN

Pursuant to Fed. R. Civ. P. 26(f), a telephone conference was held on Wednesday, September 29, 2010 and participating in the call was Daniel D. Swanson and Jesse L. Young, counsel for Plaintiff, and Mary P. Cauley, counsel for Defendant. The Parties have agreed to the following proposed Rule 26(f) discovery plan:

- (A) 1.) The Parties have agreed to serve initial disclosures per Fed. R. Civ. P. 26(a) by **October 27, 2010.**
- 2.) The Parties have agreed not to modify the schedule of disclosures prescribed by Rule 26(a).

- 3.) The Parties have agreed that any amendment to the pleadings should be done by **December 13, 2010.**
- (B) 1.) The Parties agree that discovery may be needed as to the following subjects:
- a. Documents or information concerning Plaintiff's complete personnel file.
 - b. Documents or information concerning Plaintiff's termination by Co/Op Optical.
 - c. Documents or information concerning Plaintiff's FMLA leave or other types of medical leave and Co/Op Optical's responses to same.
 - d. Documents or information concerning Co/Op Optical's other employees' requests for FMLA leave or other types of medical leave and Co/Op Optical's responses to same.
 - e. Documents or information concerning any and all of Co/Op Optical's policies governing the employment and/or job duties of its employees.
 - f. Documents or information concerning Plaintiff's gender discrimination claim.
 - g. Documents or information concerning Plaintiff's defamation claim.
 - h. Documents or information concerning Plaintiff's damages, including mitigation of same.
 - i. Documents or information concerning Co/Op Optical's defenses.
 - j. Documents or information concerning Co/Op Optical's Board of Directors' communications regarding Plaintiff's job performance and termination.
 - k. Documents or information regarding Plaintiff's communication with current or former Co/Op Optical employees or Board Members.
 - l. Documents or information regarding Plaintiff's conduct in the performance of her job.
 - m. Documents or information regarding the legal and factual basis for all of Plaintiff's claims and the necessary elements thereof.
 - n. Both Parties reserve the right to initiate discovery on other relevant issues that may arise during the course of litigation.

- 2.) The Parties have agreed to a tentative discovery cut-off date of **May 6, 2011**. The Parties agree that the discovery cut-off date is subject to modification by the Court. The Parties have agreed that any dispositive motions will be filed by **June 6, 2011**.
 - 3.) Discovery shall not be conducted in phases or focused on any particular issue.
- (C) With respect to the form in which electronic discovery is produced, counsel for the Parties have agreed to produce such documents in the form that they are maintained in the ordinary course of business. The Parties have agreed to produce such information in hard copy, on disc or .pdf format. Further, the Parties reserve the right to demand electronically stored data in its native form in the event that either Plaintiff or Defendant determines that production of information in such format is necessary.
- (D) Plaintiff has identified and may assert at least two privileges that may arise in this matter. Specifically, any and all communications between Plaintiff and her husband, Larry Smith (who is an attorney), are protected by the marital privilege and the attorney-client privilege. Defendant has identified and may assert attorney-client privilege regarding any and all communications between the Board of Directors of Co/Op Optical, or any of its members, and counsel for the Company. In the event of an inadvertent disclosure of documents that are legitimately privileged or that constitute trial preparation materials, the receiving party shall notify the disclosing party of the inadvertent disclosure, and shall return the documents to the disclosing party.

- (E) Excepting any modifications to the Federal Rules of Civil Procedure pertaining to Discovery contained in this Joint Discovery Plan, the Parties have agreed not to change or limit discovery provided under the Rules.
- (F) 1.) The Parties agree that a protective order under Rule 26(c) may be necessary in this matter. In the event that either Party determines that such an Order is necessary, the Parties have agreed to attempt to draft a mutually acceptable stipulation and protective order.
- 2.) The Parties agree that they will disclose lay witnesses by **January 7, 2011**.
- 3.) The Parties agree that they will disclose expert witnesses by **March 7, 2011**. Rebuttal experts will be disclosed by **April 4, 2011**. These disclosures will comply with Rule 26(a)(3).
- 4.) The Parties agree that this matter will be ready for the Court's Pre-Trial conference 60 days after the Court's decision on any final dispositive motions; and for trial, 30 days after the Pre-Trial conference. The Parties anticipate a trial in this matter to last 3 days, including jury selection.

Approved as to form:

/s/ Jesse L. Young (P-72614)
DANIEL D. SWANSON (P29288)
JESSE L. YOUNG (P72614)
Attorneys for Plaintiff

Dated: October 6, 2010

/s/ Mary P. Cauley, (P-38548) per permission 10/6/10
MARY P. CAULEY (P38548)
Attorneys for Defendants

Dated: October 6, 2010